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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,579	11/24/2003	Brian J. Berdan	87360.2940	1223

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BAKER & HOSTETLER LLP
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EXAMINER

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
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3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/718,579

Applicant(s)

BERDAN ET AL.

Examiner

Robert J. Canfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. This is a first Office action on the merits for application serial number 10/718,579 filed 11/24/03. Claims 1-21 are pending.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: ENCLOSURE AND METHOD OF INSPECTING.

3. The disclosure is objected to because of the following informalities:

There is no brief description of figures 2A, 2B or 2C only a brief description of a figure 2 which does not exist.

Appropriate correction is required.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **32** (appears to be the wheels discussed on page 11). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

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the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 5-7 and 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrases "other similar materials and a combination thereof", "other closing members, and a combination thereof", "other securing means and a combination thereof", and "other similar materials or a combination thereof", all render the claims indefinite because the claims include elements not actually disclosed thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 3, 5-9, 11, 12, 16-18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,884,588 to Shrode.

Shrode provides a portable enclosure system 10 comprised of "any type of plastic or rubberized sheet material, canvas, and the like" most of which are going to inherently be non-transparent and prevent or minimize light from entering the area worked on. The enclosure has a front with a vertical slit 15 which may be closed with Velcro® strips 17. The slit 15 provided to allow access to the enclosure. Magnets 25 are provided for securing the material to a vehicle 13.

As to claim 3, the devices used to inspect the vehicle are not required to meet the enclosure.

As to claim 8, the person working on the car would first inspect an area of the vehicle to be worked on. Any tool such as a flashlight meets "an inspection tool".

As to claim 11 the enclosure would inherently slow movement of air.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,884,588 to Shrode in view of U.S. Patent 5,277,214 to Tolley.

Shrode provided each of the elements of the claims except a means for storing such as a pouch.

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Tolley teaches that at the time of the invention it was known to provide a pocket or "pouch" 21 on the wall of an enclosure used when working on a vehicle.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the enclosure 10 of Shrode could have been provided with a pocket or pouch as taught by Tolley at 21. It would have been obvious so as to provide a convenient means for storing items such nuts or tools used when working on the vehicle.

11. Claims 2, 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,884,588 to Shrode in view of U.S. Patent 5,738,130 to Thomas.

Shrode provides each of the elements of the claims except that the magnets are enclosed by the flap.

Thomas teaches at column 4, lines 9-18 (figure 7) that it was known to seal magnets 24 into a hem or pocket 28 along the edge of an enclosure adapted to be secured to a vehicle. This inherently would help prevent scratching of the vehicle by the magnets.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the magnets 25 of Shrode could have been sealed into a seam or pocket as taught by Thomas. It would have been obvious so that the magnets did not scratch the vehicle and because Shrode teaches that the magnets 25 may be "glued or otherwise secured" and Thomas teaches an alternate securing means.

12. Claims 3, 10, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,884,588 to Shrode in view applicant disclosure.

Shrode provides an enclosure system 10 for a person working on the vehicle.

The enclosure 10 is secured to a vehicle 13 and would inherently minimize light to the interior of the enclosure.

Shrode fails to specify any specific procedures performed on the vehicle.

Applicant admits in the BACKGROUND OF THE INVENTION that inspecting and testing for leaks using fluorescent techniques and black lights is known.

It would have been obvious at the time of the invention to one having ordinary skill in the art that any known or common inspection/maintenance procedures such as inspecting and testing for leaks with fluorescent techniques and black lights could have been performed while using the enclosure of Shrode.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert J Canfield
Primary Examiner
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03/31/07